

## **Minneapolis City Planning Department Report**

Zoning Amendment (Rezoning), Conditional Use Permit, Site Plan Review, Variances

BZZ – 1091

**Date:** April 14, 2003

**Date Application Deemed Complete:** March 19, 2003

**End of 60 Day Decision Period:** May 18, 2003

**Applicant:** Master Civil & Construction Engineering

**Address Of Property:** 3801 28<sup>th</sup> Ave. S.

**Contact Person And Phone:** Patricia Fitzgerald, 872-9200

**Planning Staff And Phone:** Jason Wittenberg, 673-2297

**Ward:** 9      **Neighborhood Organization:** Standish-Ericsson Neighborhood Association

**Existing Zoning:** C1

**Proposed Zoning:** C2

**Zoning Plate Number:** 33

**Legal Description of Property Proposed for Rezoning:** Addition: Subd. Altruria, Lots 1 to 5 & 12; Block 1;

Metes & Bounds: Lots 29 and 30.

**Project Name:** Hiawatha Square

**Proposed Use:** Three-story mixed use building with approximately 1,000 square feet of ground-level commercial area and 16 residential units on the second and third floors. A conditional use permit is required for construction of five or more dwelling units, as indicated in Table 548-1 of the zoning code.

**Site Plan Review:** Site plan review is required for any use containing five or more new or additional dwelling units as indicated in Table 530-1 of the zoning code.

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**Variances:**

- A variance to reduce the required rear yard setback from 9 feet to 1 foot for the proposed building;
- A variance to reduce the required front yard setback (for the first 40 feet from the residential property to the south) from 15 feet to 0 feet;
- A variance to reduce the minimum lot area per dwelling unit from 665 square feet (after applicable density bonuses) to 624 square feet;
- A variance to reduce the required number of off-street parking spaces for the commercial use from 3 to 1.

**Zoning Code Section Authorizing Proposed Variances:** 525.520(1), (2), (7)

**Previous Actions:** N/A

**Concurrent Review:** Rezoning, conditional use permit, site plan review, and variances as noted above.

**Background:** The applicant proposes to construct a new mixed use development at the southeast corner of East 38<sup>th</sup> Street and 28<sup>th</sup> Avenue South. The property is currently occupied by an automobile repair facility.

The project would have 17 off-street parking spaces that would be enclosed within the building at grade level. The off-street parking would be accessed through the public alley.

The project is located within a Transit Station Area, defined by the comprehensive plan as those areas within approximately one-half mile of the non-downtown LRT stations. The project is approximately two blocks from the station at 38<sup>th</sup> and Hiawatha.

**Findings As Required By The Minneapolis Zoning Code for the Rezoning Application:**

**1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.**

The Minneapolis Plan indicates that the City should increase the number of households living in Minneapolis, and that “(t)he number of households from all walks of life who choose to make Minneapolis their home must continue to grow if the city’s neighborhoods are to remain economically, socially and physically vital.”

The property in question is located within several blocks of the 38<sup>th</sup> Street LRT station. The City Council adopted changes to the Minneapolis Plan in 2002, adding Transit Station Areas (TSAs) to the areas within approximately one-half mile of light rail transit stations outside of downtown. The site is also located on a Community Corridor (38<sup>th</sup> Street).

Planning staff has identified the following policies of the Minneapolis Plan as being relevant to the request to rezone the property to the C2 District.

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*Relevant policy:* **4.18.** Minneapolis will encourage both a density and mix of land uses in TSAs that both support ridership for transit as well as benefit from its users.

*Relevant Implementation Steps:*

- Concentrate highest densities and mixed-use development nearest the transit station and and/or along Commercial Corridors, Community Corridors and/or streets served by local transit.
- Support and encourage small-scale, pedestrian-oriented services and retail uses to locate near stations and within mixed use buildings to serve transit riders and the immediate neighborhood (e.g., day care centers, cafes, dry cleaners, convenience grocery, etc.).
- Discourage automobile services and drive-through facilities from locating or expanding in these designated areas.

*Staff comment:* The C2 District would allow higher density residential uses compared to the existing C1 District. However, the C2 District also allows automobile services uses that are discouraged from locating in TSAs.

*Relevant policy:* **9.27.** Minneapolis will coordinate land use and transportation planning on designated Community Corridors through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.

*Relevant Implementation Steps:*

- Promote more intensive residential development along these corridors where appropriate.
- Support the continued presence of small scale retail sales and commercial services along Community Corridors.

*Staff comment:* As with Policy 4.18, above, Policy 9.27 and its relevant implementation steps offer mixed guidance about the rezoning from C1 to C2. Although the C2 District would allow more intensive residential development near an LRT station, the district would allow commercial uses that are automobile oriented (e.g., automobile convenience facilities, automobile repair facilities).

Planning staff is somewhat concerned about the fact that the proposed C2 zoning allows automobile oriented uses that would not be consistent with Transit Station Areas.

**2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.**

Although the rezoning would largely benefit a particular property owner, the zoning change could be considered to be in the public interest to the extent that aspects of the C2 District are supportive of more intensive residential development that would help area businesses thrive and capitalize on the public investment in LRT.

3. **Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.**

The applicant's property is located at the southeast corner of the intersection. Properties at the intersection include the following uses:

Northeast corner: Automobile repair

Northwest corner: Mixed use development with retail furniture store on ground level with residential above.

Southwest corner: Mixed use development with office uses on ground level with residential above.

The site shares a property line with a multi-family building that has R4 zoning.

There is C2 zoning one-half block to the west of the site.

4. **Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.**

There are reasonable uses for the property under the existing zoning classification. The property in question could accommodate, for example, a variety of residential and commercial uses.

5. **Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.**

With the LRT line and station currently under construction within several blocks of the site, the city expects that many sites will be redeveloped with more intensive uses.

**Findings As Required By The Minneapolis Zoning Code For A Conditional Use Permit:**

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. **Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

Construction of 16 dwelling units on a Community Corridor would not prove detrimental to public health, safety, comfort or welfare. The principal public safety concern of the Planning Department is that, with the proposed rear yard setback, a minimal site triangle would be provided where the alley meets the public sidewalk.

2. **Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The proposed development would comply with the required setback along the one property line that is shared with a residential property. The Planning Department believes that replacing the existing automobile repair facility, which is not in compliance with Chapter 530, Site Plan Review, could spur rather than hinder additional redevelopment of underutilized or blighted properties in the area.

3. **Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The site would be accessed from the existing public alley, which is 14 feet in width. The Public Works Department has reviewed the preliminary plan and will review the final plan for issues such as drainage and public facilities. The section of 38<sup>th</sup> Street in question will be repaved this summer. The applicant intends to take advantage of the reconstruction to put some improvements in place that would otherwise require tearing up of portions of the street

4. **Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The residential units would comply with the minimum required number of off-street parking spaces. The applicant has requested a variance to reduce the number of required off-street parking spaces for the commercial space. Given the small scale of the proposed commercial use, congestion on area streets would not be affected substantially. To ensure parking turnover for the proposed commercial use, staff has recommended that the applicant work with the Public Works Department to institute a short-term (e.g., 15 minute or one hour) parking area along 38<sup>th</sup> Street.

5. **Is consistent with the applicable policies of the comprehensive plan.**

The conditional use permit to allow 16 dwelling units within the proposed mixed use building is consistent with the relevant provisions of the Minneapolis Plan, as follows:

*Relevant Policy:* **4.18** Minneapolis will encourage both a density and mix of land uses in TSAs that both support ridership for transit as well as benefit from its users.

*Relevant Implementation Steps:*

- Concentrate highest densities and mixed use development nearest the transit station and/or along Commercial Corridors, Community Corridors, and/or streets served by local bus transit.

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*Staff comment:* The proposed project is within two blocks of the 38<sup>th</sup> Street LRT station and is located on both a Community Corridor and a local bus route. The site is appropriate for the proposed number of dwelling units.

- 6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit, the rezoning request, relevant variances, and site plan review.**

If all land use/zoning applications are approved, including several variances, the proposal will comply with all provisions of the C2 District.

**Required Findings for Major Site Plan Review**

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan. (See Section B Below for Evaluation.)**
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C Below for Evaluation.)**

**Section A: Conformance with Chapter 530 of Zoning Code**

**BUILDING PLACEMENT AND FAÇADE:**

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building façade shall provide architectural detail and shall contain windows at the ground level or first floor.
- In larger buildings, architectural elements shall be emphasized.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.

- **The use of plain face concrete block as an exterior material shall be prohibited where visible from a public street or a residence or office residence district.**
- **Entrances and windows:**
  - **Residential uses shall be subject to section 530.110 (b) (1).**
  - **Nonresidential uses shall be subject to section 530.110 (b) (2).**
- **Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

*Conformance with above requirements:*

The buildings would reinforce the street wall and would match the pattern set by the mixed use building directly across 28<sup>th</sup> Avenue. Natural surveillance would be optimized through the use of generous windows in the proposed commercial space and some windows allowing views into and out of the parking garage. Pedestrian access would be ideal, allowing pedestrians to access the entrances directly from the public sidewalk.

The buildings would be constructed up to the front lot line as well as the corner side lot line along 38<sup>th</sup> Street.

The applicant proposes trees in the public right of way along 38<sup>th</sup> Street as well as bicycle racks along 28<sup>th</sup> Avenue. Consideration is also being given to integrating a bus transit shelter into the development along 28<sup>th</sup> Avenue.

The principal entrances to the building would face the public streets.

On-site accessory parking facilities would be located entirely within the building at grade level. According to the applicant, the Minnesota Pollution Control Agency has recommended not excavating deeper than four feet on the site due to potential contamination emanating from past uses on the site.

The buildings would include a good deal of architectural detail and would include windows at ground level.

Architectural elements are emphasized in that the proposed building design attempts to create distinct sections of the building that would reduce its apparent mass.

The primary materials would be a mix of EIFS, modular brick, burnished block, and vinyl siding. Staff is concerned that the vinyl siding would not be compatible with other proposed materials and would not be compatible with other mixed use buildings located at the intersection. Although the city does not endorse a particular brand name product, Hardiplank siding would be an example of a higher quality material that staff would consider more compatible with the other proposed materials. The fact that many historic districts prohibit vinyl or aluminum siding within their boundaries is a testament to its incompatibility with traditional building materials.

Plain face concrete block cannot be used as a primary exterior building material. The applicant does propose extensive use of burnished concrete block at the ground level of the building on all sides.

It appears that the building entrances will be emphasized with awnings. Awnings are utilized, but the elevations and the site plan do not appear to be consistent regarding the placement of those awnings. The applicant proposes to slightly recess the residential entrance. It's understood that this would allow an "out swinging" that would not extend into the right of way, but the recessed entrance should be complemented by a feature that would place emphasis on the entrance. This might be as simple as a prominent (and architecturally compatible) building address number. Of the ground-level commercial area facing 28<sup>th</sup> Avenue, approximately 55 percent of the first floor façade would be windows. Of the commercial space facing 38<sup>th</sup> Street, approximately 57 percent of the ground level would be windows. The applicant has proposed several windows into the proposed parking garage, however, the percentage would be well below the 30 percent called for by Chapter 530. When considering the entire ground floor elevations of the building, both the commercial space and the parking garage, the window area would be approximately 27 percent. Along 28<sup>th</sup> Avenue, the window area of the overall façade would be approximately 26 percent. Because the site is not conducive to below grade parking and recognizing the challenges associated with allowing views into and out of the garage area, staff recommends that the commission grant alternative compliance for the window area provided that some windows are provided that allow views into and out of the parking garage.

#### **ACCESS AND CIRCULATION:**

- **Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).**
- **Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.**
- **Site plans shall minimize the use of impervious surfaces.**

*Conformance with above requirements:*

The building entrances would be immediately adjacent to the public sidewalk.

The applicant is considering incorporating a transit shelter into the development along 28<sup>th</sup> Avenue, where Metro Transit's route 19 currently has a stop.

Vehicular access would take place via the public alley. Three curb cuts on the existing site would be eliminated. These factors minimize vehicle/pedestrian conflicts.



The uses may use the public alley for access to the site.

Given that the proposed development does not include an open parking lot, the amount of snow to be removed or stored would be minimal.

The site would include permeable area along the south side of the building as well as a small landscaped area along the 38<sup>th</sup> Street.

#### **LANDSCAPING AND SCREENING:**

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**
  - **Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).**
- **Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).**
- **Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.**
- **Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:**
  - **A decorative fence.**
  - **A masonry wall.**
  - **A hedge.**
- **Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).**
- **Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).**
- **The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.**
- **Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.**
- **All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.**
- **All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.**

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- **Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.220.**
- **The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in section 530.230.**

*Conformance with above requirements:*

Since all parking is enclosed within the building, nearly the entire net site area would be landscaped. Closely planted decorative trees would be placed between the building and the south property line. A landscaped area approximately four feet in width would be planted along a portion of the 38<sup>th</sup> Street frontage. Staff recommends use of hardwood mulch rather than rock mulch.

The proposed plan would comply with the required number of trees and shrubs based on the amount of net site area.

There are no required “landscaped yards” on the site, partly due to the fact that the site would not have an open parking lot.

Concrete curbing is not applicable given that the parking would be enclosed.

The landscaping must be properly installed and maintained.

Turf will cover all areas that are not paved or landscaped.

**ADDITIONAL STANDARDS:**

- **Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.**
- **Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.**
- **Site plans shall minimize the blocking of views of important elements of the city.**
- **Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **Buildings shall be located and arranged to minimize the generation of wind currents at ground level.**
- **Site plans shall include crime prevention design elements as specified in section 530.260.**
- **Site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

*Conformance with above requirements:*

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The applicant proposes several wall-mounted lights along the public streets. Lighting must comply with Chapter 535 of the zoning code.

Headlight glare from exiting vehicles would shine onto the residential properties across the public alley. Allowing vehicles to exit the site is, of course, necessary and there is no way to mitigate this condition on the site.

Significant views would be blocked by the development.

Shadowing of public sidewalks would be expected on a three-story building on a corner lot.

Wind currents should not be major concern.

From a crime prevention standpoint, the applicant should consider some low-level lighting on the south side of the building. The residential entrance would be secure and the off-street parking would be enclosed and only accessible to residents and one employee or owner of the commercial business.

The site is not located within a designated historic district.

**Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan**

**ZONING CODE:** The site is zoned C1. The applicant proposes to rezone the property to C2 in order to increase the number of dwelling units that would be allowed on the property.

**Parking and Loading:** The applicant would provide 16 residential off-street parking spaces; one space for each residential unit, as required by Chapter 541 of the zoning code. The commercial use would be required to provide four off-street parking spaces. The applicant proposes to install a bicycle rack to reduce the required number of off-street parking spaces by one space (as allowed by section 541.220 of the zoning code). Bicycle parking would be located both outdoors (with an encroachment permit) and within the parking facility. One off-street automobile parking space would be reserved for an owner or employee of the commercial business. The applicant has requested a variance to reduce the required number of off-street parking spaces for the commercial use from three to one.

**Signs:** The applicant proposes both wall and projecting banner signs that must comply with Chapter 543 of the zoning code and that require a permit from the Inspections Department.

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**Maximum Floor Area:** The maximum F.A.R. in the C2 District is 1.7. However, the applicant qualifies for density bonuses of 20 percent each for having both enclosed parking and a mix of commercial and residential uses in the building (section 548.130[b] and [c]). With bonuses, the applicant could construct up to 23,765 square feet of floor area on the property. The proposed development would have 18,665 square feet of floor area. The parking garage is not included in the calculation of gross floor area as noted in the definition of *Floor area, gross (GFA)* in section 520.160 of the zoning code.

**Minimum Lot Area:** The existing C1 District requires not less than 1,500 square feet of lot area per dwelling unit for dwelling units that are part of a mixed use development. In the proposed C2 District, 900 square feet of lot area is required for each dwelling unit. The applicant qualifies for the bonuses noted immediately above, which also increase the number of units allowed by 20 percent each. Without bonuses, 11 dwelling units would be allowed. With two 20 percent bonuses, the number of allowed units is increased to 15. Thus, with the bonuses, the applicant would be required to provide at least 665 square feet of lot area per dwelling unit while they propose to provide 624 square feet per dwelling unit. A variance has been requested to reduce the minimum lot area.

**Height:** Building height in the C2 District is four stories or 56 feet, whichever is less. The proposed building would be three stories in height.

**Yard Requirements:** For the proposed three-story building, the following setbacks must be provided without a variance:

*Front* (along 28<sup>th</sup> Ave.): 15 feet (for the first 40 feet from the residence district to the south)

*Rear* (along the alley): 9 feet (five feet plus two feet for every story above the first story)

*Interior side* (along the south): 9 feet (five feet plus two feet for every story above the first story)

The applicant's proposal would comply with the south side yard, but a variance request has been filed from the required front yard setback along 28<sup>th</sup> Avenue.

**Specific Development Standards:** None

**Hours of Operation:** Residential uses are not governed by maximum hours of operation. The commercial use would be limited to the following hours open to the public:

Sunday through Thursday, from 6:00 a.m. to 10:00 p.m.

Friday and Saturday, from 6:00 a.m. to 11:00 p.m.

**Dumpster screening:** The proposed refuse storage container would be located near the public alley. The container would be screened on three sides by the building and by solid cedar gates on the east side. Such gates cannot (and would not) swing into the public alley.

**MINNEAPOLIS PLAN:** In addition to the relevant policies discussed in the conditional use permit above, the following policies are also relevant the proposed site layout and building forms. The site lies within one Transit Station Areas (TSAs), identified as those areas with approximately one-half mile of an LRT station.

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*Relevant Policy:* **4.19** Minneapolis will require design standards for TSAs that are oriented toward the pedestrian and bicyclist enforce traditional urban form.

*Relevant Implementation Steps:*

- Ensure that building and site design is oriented to the pedestrian (e.g., reinforcing street walls, anchoring street corners, creating semi-public outdoor spaces, creating visual interest, providing adequate fenestration, and ensuring that principal building entrances open onto public sidewalks).
- Preserve traditional urban form where it currently exists within TSAs, and encourage new development to relate to this context.
- Ensure that TSA development is well integrated into the surrounding neighborhoods through attention to building design, landscaping, and transitions in density and land use.

*Staff comment:* The site reinforces the street wall that is consistent with two of the other corners at the intersection. A good deal of fenestration would be provided on the proposed building. The principal entrances would open directly to the public sidewalks.

*Relevant Policy:* **4.12** Minneapolis recognizes that parking is a necessary part of the urban environment, but will limit the amount, location, and design of parking in TSAs in order to encourage and support walking, bicycling, and transit use.

*Relevant Implementation Steps:*

- Allow reductions in minimum off-street parking requirements.
- Restrict the location of off-street parking of new development to the side or rear of buildings, so that there are direct connections between the public sidewalk and the principal entrances of buildings.
- Provide density bonuses for land uses that provide parking underground or within structures.

*Staff comment:* The applicant proposes to reduce the required number of off-street parking spaces for a small commercial space. The applicant is receiving two density bonuses for having a residential-commercial mix and for enclosing their parking.

**Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council**

Staff is unaware of any conflict between the proposal and any development plan or objective adopted by the city council.

**Alternative Compliance. The Planning Commission may approve alternatives to any major site plan review requirement upon finding any of the following:**

- **The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but**

are not limited to additional open space, additional landscaping and screening, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.

- **Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.**
- **The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.**
- Because the site is not conducive to below grade parking due to pollution from previous uses and recognizing the challenges associated with allowing views into and out of the garage area, staff recommends that the commission grant alternative compliance for the window area provided that some windows are provided that allow views into and out of the parking garage.

**Findings Required by the Minneapolis Zoning Code for the Proposed Variances:**

1. **The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

*Rear yard setback:* The property depth—125 feet—is relatively typical of parcels in Minneapolis. Note that the only reason the project must provide a rear yard setback is that there is a residential use providing windows facing the rear lot line (see Table 548-3 of the zoning code).

*Front yard setback:* The corner mixed use project could not be developed in a manner consistent with traditional urban form or consistent with the project directly across 28<sup>th</sup> Avenue without the granting of the variance.

*Minimum lot area:* As noted by the applicant, the project (after taking advantage of density bonuses) would be allowed to provide 15.45 dwelling units. Traditional zoning administration practices do not round up the number of dwelling units allowed. Without the granting of the variance, the applicant may have the ability to construct a building consistent with the principles of the city's comprehensive plan.

*Minimum number of off-street parking spaces:* Providing a modest commercial space (i.e., 1,000 square feet) within a mixed use development presents unique challenges on a site that is relatively modest in area.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic**

**considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

*Rear yard setback:* The fact that the parcel does not share a rear lot line with a residential use and instead the rear of the building is along a public alley is unique and is not generally applicable to other projects.

*Front yard setback:* The fact that the corner property is immediately adjacent to a residence district is not generally applicable to other corner properties in the city.

*Minimum lot area:* The site's proximity to an LRT station and the fact that it is located on a corner property on a Community Corridor and a bus transit route are unique factors that are not generally applicable to other properties in the C2 District.

*Minimum number of off-street parking spaces:* Without the proposed variance, the applicant would be unable to match the characteristics of some other small commercial spaces in the vicinity.

**3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

*Rear yard setback:* The variance in question is along a public right of way rather than a common property line. The intent of the ordinance could be met if adequate space is provided to maneuver into and out of the parking garage. As a point of reference related to vehicle maneuvering, detached accessory structures that have garage doors facing an alley must provide a five-foot setback from the rear/alley property line. The applicant must ensure that the proposed garage door is located at least five feet from the rear lot line to ensure that vehicles do not use the apron of the garage located across the alley to maneuver their vehicles into and out of the parking garage.

*Front yard setback:* Projects that are subject to site plan review are supposed to be constructed in a manner that reinforces the street wall. The granting of the variance would support this type of traditional urban form encouraged by both site plan review chapter and the comprehensive plan. The fact that the project would comply with the south side setback substantially minimizes any impact that the variance would have on the multifamily residential building immediately to the south.

*Minimum lot area:* The granting of a variance to allow an additional dwelling unit on the property would not significantly affect the essential character of the area provided that one off-street parking space is reserved for each dwelling unit.

*Minimum number of off-street parking spaces:* One off-street parking space would be provided for an owner or employee of the commercial space. The comprehensive plan suggests that the city should be willing to reduce the required number of off-street parking spaces in Transit Station Areas. Given the very modest scale of the proposed commercial space, staff does not expect that granting the

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variance would negatively affect the character of the surrounding area and would, in fact, help reinforce the character of the area.

4. **The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

*Rear yard setback:* Provided adequate maneuvering area is provided, the Planning Department does not expect that granting the variance would affect congestion or safety.

*Front yard setback:* The proposed setback would be consistent with numerous other traditional corner developments in the surrounding area and in the city and would not prove detrimental to traffic congestion or public safety.

*Minimum lot area:* An off-street parking space would be provided for the “additional” dwelling unit that would be provided as a result of the variance, minimizing any affect on street congestion and public safety.

*Minimum number of off-street parking spaces:* The modest size—and therefore the modest capacity—of the commercial space would preclude the use from causing significant problems related to congestion and public safety. Staff recommends that the applicant pursue designation of short-term parking area in front of the building if the eventual use is one that relies on short-term customers. Many types of businesses that could locate in the space would be expected to benefit from an increase in pedestrian traffic once the LRT system is operational in 2004.

#### **CITY PLANNING DEPARTMENT RECOMMENDATIONS:**

##### **Recommendation Of The City Planning Department for the Zoning Amendment (Rezoning) Application:**

The City Planning Department recommends that the City Planning Commission and City Council adopt the above findings and **approve** the application to rezone the property at 3801 28<sup>th</sup> Avenue South from the C1 District to the C2 District.

##### **Recommendation Of The Minneapolis City Planning Department for the Conditional Use Permit:**

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow sixteen (16) dwelling units in a mixed use building located at 3801 28<sup>th</sup> Ave. S.



**Recommendation of the City Planning Department for the Site Plan Review Application:**

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for sixteen (16) dwelling units in a mixed use building located at 3801 28<sup>th</sup> Avenue South, subject to the following conditions:

- 1) Vinyl siding shall not be used as a primary exterior building material due to its incompatibility with the other proposed exterior materials.
- 2) Windows on the parking garage walls along both 38<sup>th</sup> Street and 28<sup>th</sup> Avenue shall be transparent.
- 3) The applicant shall obtain an encroachment permit for all improvements in the public right of way.
- 4) The Planning Department shall review and approve the final site and landscape plans.
- 5) If improvements required by Site Plan Review exceed two thousand (2000) dollars, the applicant shall submit a performance bond in the amount of 125 percent of the estimated site improvement costs prior to obtaining a building permit.
- 6) Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by April 14, 2004, or the permit may be revoked for non-compliance.

**Recommendation of the City Planning Department for the Variance Application to Reduce the Required Rear Yard Setback:**

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the required rear yard setback from 9 feet to 1 foot for the proposed mixed use building at 3801 28<sup>th</sup> Avenue South, subject to the following condition:

- 1) The overhead garage door shall be located not less than five (5) feet from the rear property line to contribute to adequate vehicular movement into and out of the building.

**Recommendation of the City Planning Department for the Variance Application to Reduce the Required Front Yard Setback:**

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the required front yard setback (for the first 40 feet from the residential property to the south) from 15 feet to 0 feet for the proposed mixed use building at 3801 28<sup>th</sup> Avenue South.

**Recommendation of the City Planning Department for the Variance Application to Reduce the Minimum Lot Area:**

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the minimum lot area per dwelling unit from 665 square feet (after applicable density bonuses) to 624 square feet for the proposed mixed use building at 3801 28<sup>th</sup> Avenue South.

**Recommendation of the City Planning Department for the Variance Application to Reduce the Required Number of Off-Street Parking Spaces:**

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the required number of off-street parking spaces for the commercial use at 3801 28<sup>th</sup> Avenue South from 3 to 1, subject to the following condition:

- 1) No fewer than four (4) bicycle parking spaces shall be provided on the site. The bicycle rack(s) shall allow for the locking of bicycles in a stable upright position in a location that allows for visual monitoring. The bicycle parking may be located in the public right-of-way with permission of the Public Works Department.